



# PROPOSED RULE MAKING

**CR-102 (June 2004)**

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

**Agency:** Department of Social and Health Services, Aging and Disability Services

- ☒ **Preproposal Statement of Inquiry was filed as WSR 10-04-113** ; or  
☐ **Expedited Rule Making--Proposed notice was filed as WSR** \_\_\_\_\_ ; or  
☐ **Proposal is exempt under RCW 34.05.310(4).**

- ☒ **Original Notice**  
☐ **Supplemental Notice to WSR**  
☐ **Continuance of WSR**

**Title of rule and other identifying information:** (Describe Subject)

The department intends to amend the following sections: WAC 388-76-10000 Definitions; WAC 388-76-10160 – Criminal history background check – Required; WAC 388-76-10165 – Criminal history background check – Valid for two years; WAC 388-76-10170 Criminal history background check – Information – Confidentiality – Use restricted; WAC 388-76-10174 Background checks – Disclosure of information – Sharing of criminal background information by health care facilities; WAC 388-76-10175 Employment – Conditional – Pending results; WAC 388-76-10180 Employment and other unsupervised access decisions; WAC 388-76-10130 Qualifications – Provider, entity representative and resident manager; and WAC 388-76-10135 Qualifications - Caregiver. The department intends to repeal the following sections: WAC 388-76-10155 Unsupervised access to vulnerable adults – Prohibited and WAC 388-76-10173 Disclosure of employee information – Employer immunity – Rebuttable presumption. The department intends to add the following new sections: WAC 388-76-10161 Background check - Washington state - who is required to have; WAC 388-76-10162 Background check – National fingerprint checks – Who is required to have; WAC 388-76-10163 Background check – Process; WAC 388-76-10164 Background check – Results; and WAC 388-76-10146 Qualifications – Training and home care aide certification.

**Hearing location(s):**

Office Building 2 - Auditorium  
 (DSHS Headquarters)  
 1115 Washington  
 Olympia, WA 98504  
 Public parking at 11<sup>th</sup> and Jefferson. A map is available at:  
<http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>  
 or by calling 360-664-6094.

Date: **June 22, 2010** Time: **10:00 a.m.**

**Submit written comments to:**

Name: DSHS Rules Coordinator  
 Address: PO Box 45850, Olympia WA, 98504-5850  
 Delivery: 4500 – 10<sup>th</sup> Ave. SE, Lacey, Washington 98503  
 E-mail: [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov)  
 Fax: (360) 664-6185

by  
**5 p.m. on June 22, 2010**

**Date of intended adoption:** Not earlier than June 23, 2010  
 (Note: This is **NOT** the **effective** date)

**Assistance for persons with disabilities:** Contact Jennisha Johnson, DSHS Rules Consultant by June 8, 2010  
 TTY (360) 664-6178 or (360) 664-6094 or  
 by e-mail at [johnsjl4@dshs.wa.gov](mailto:johnsjl4@dshs.wa.gov)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

The department is amending these rules and adding new sections to implement Chapters 74.39A and 18.88B RCW as codified from Initiative Measure No. 1029 and Engrossed Second Substitute House Bill 2284 (E2SHB 2284), Chapter 361, Laws of 2007.

**Highlights of proposed changes:**

- Editorial and housekeeping changes in the following sections: definitions, background checks, employment, and qualifications.
- To be consistent with Chapter 361, Laws of 2007, E2SHB 2284.
- Clarifies what is included in a Washington state background check.
- Clarifies when a national fingerprint-based background check is required.
- Clarifies the background check process
- Clarifies what the adult family home must do after receiving background check results.
- Clarifies rules around sharing of background check results.
- Clarifies rules for conditional employment.
- Clarifies who must be certified as a home care aide.

**Reasons supporting proposal:**

To have the rules comply with the statutes referenced above.

**Statutory authority for adoption:**

RCW 70.128.040

**Statute being implemented:**

Chapter 70.128 RCW

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

**DATE**

April 28, 2010

**NAME** (type or print)

Katherine Vasquez

**SIGNATURE**

**TITLE**

DSHS Rules Coordinator

**CODE REVISER USE ONLY**

**OFFICE OF THE CODE REVISER  
 STATE OF WASHINGTON  
 FILED**

**DATE: May 05, 2010**

**TIME: 9:13 AM**

**WSR 10-10-120**

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

**Name of proponent:** (person or organization) Department of Social and Health Services

- ☐ Private  
☐ Public  
☒ Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting.....Mike Tornquist	P.O. Box 45600, Olympia, WA 98513	(360) 725-3204
Implementation....Lori Melchiori	P.O. Box 45600, Olympia, WA 98513	(360) 725-2404
Enforcement.....Lori Melchiori	P.O. Box 45600, Olympia, WA 98513	(360) 725-2404

**Has a small business economic impact statement been prepared under chapter 19.85 RCW?**

☒ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name: Mike Tornquist

Address: P.O. Box 45600 Olympia, WA 98504-5600

phone (360) 725-3204

fax (360) 438-7903

e-mail tornqmj@dshs.wa.gov

☐ No. Explain why no statement was prepared.

**Is a cost-benefit analysis required under RCW 34.05.328?**

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Mike Tornquist

Address: P.O. Box 45600 Olympia, WA 98504-5600

phone (360) 725-3204

fax (360) 438-7903

e-mail tornqmj@dshs.wa.gov

☐ No: Please explain: